

February 9, 2016

The regular meeting of the City Council of the City of Fairmont was held at 7:00 p.m. on the 9th day of February, 2016, at the Public Safety Building located at 500 Quincy Street in Fairmont, West Virginia.

Mayor Straight called the meeting to order.

Councilmembers present were:

First District	Marianne Moran
Second District	Frank G. Yann
Third District	Robert (Rob) Linger
Fourth District	William H. (Bill) Burdick
Fifth District	Fran Warner
Sixth District	Daniel K. (Dan) Weber
Seventh District	Philip R. (Phil) Mason
Eighth District	Thomas (Tom) Mainella
Ninth District	Ronald J. (Ron) Straight, Sr.

Also present were:

City Manager	Robin I. Gomez
City Clerk	Janet L. Keller
City Attorney	Kevin V. Sansalone
Finance Director	Eileen Layman
Police Chief	Steve Shine
Police Lieutenant	John Murphy

IN RE: OPENING CEREMONIES

Rev. D.D. Meighen gave the invocation followed by the Pledge of Allegiance to the Flag led by Councilmember Mason.

APPROVAL OF MINUTES

Mayor Straight noted that each member of Council had received a copy of the minutes from the Regular Meeting held on January 26, 2016.

Councilmember Moran moved to approve the minutes as submitted. The motion was seconded by Councilmember Warner.

The Mayor declared the minutes approved as submitted by voice vote of Council.

PUBLIC HEARINGS

IN RE: AN ORDINANCE PROVIDING FOR AN AMENDMENT TO THE CITY OF FAIRMONT'S 2015-2016 ANNUAL BUDGET: GENERAL FUND

Pursuant to a notice duly published in the Times-West Virginian on February 1, 2016, a public hearing was convened to obtain citizen input on an ordinance providing for a General Fund Budget Revision.

The Mayor asked if anyone present desired to speak to the proposed ordinance.

Finance Director Eileen Layman spoke in favor of the proposed ordinance. She went over the highlights of the budget revision.

There being no one else to speak, the public hearing was called to a close at 7:06 p.m.

COMMUNICATIONS WITH CITY MANAGER

IN RE: MAYOR DAVE HAMILL OF RANSON PASSED AWAY

Councilmember Mainella noted the passing of a wonderful Mayor, Dave Hamill, Mayor of Ranson for 30 years. He noted that he was a very devoted public official and he got to know him through the WV Municipal League. Mayor Hamill will be greatly missed.

IN RE: HOUSE BILL 4352

Councilmember Weber passed out an article that was in the Dominion Post having to do with the four hospitals that are basically in limbo and there is some progress toward it not happening. He went on to say that House Bill 4352 was introduced in the Legislature to eliminate these hospitals by selling them and then pay off PEIA for one year. He then encouraged everyone to write and/or call your Delegates stating that you are opposed to the selling of these particular hospitals. He mentioned that there are 65 jobs at the John Manchin Health Care Center that would be lost. Councilmember Weber then suggested that Council adopt a resolution stating that the Fairmont City Council opposes House Bill 4352 and that the City Manager send a letter to the Delegates stating that we oppose the selling or closing of the John

Manchin Health Care Center. He closed by saying that the nine Councilmembers should speak as one.

IN RE: POINT IN TIME

Councilmember Yann stated that he participated in the "Point In Time" that was held last week. He said this project was to find out where the homeless are and give them information. He noted that the Police Department was very helpful in the project.

IN RE: COMMUNITY STAKEHOLDERS WORKSHOP

Councilmember Yann reported that he attended the Community Stakeholders Workshop about revitalizing the Windmill Park area. He said there was a good turnout and he thinks good things will come from it.

IN RE: TREES AT MORRIS PARK

Councilmember Yann stated that he received an email that read: When the City discusses trees, you might mention that they own 100 acres of trees in Morris Park and many, many need to be harvested and replaced before they fall down and hurt someone playing disc golf, walking or smashing one of the 5,000 cars that travel during the Celebration of Lights. The email then mentioned a WV State Forestry Officer would probably volunteer to cruise the property to determine which trees need to be pruned or removed.

IN RE: BOY SCOUT IN ATTENDANCE

The Mayor introduced Boy Scout Elias Costello from Troop 22 in Fairview. He noted that he was working on his Communication Badge and had to attend a City Council meeting as a requirement. The Mayor noted Elias had two more badges to obtain and then he will be working on his Eagle Scout Project.

CITIZENS PETITIONS

IN RE: COMMUNITY STAKEHOLDERS WORKSHOP

DIAMOND BROWN, a resident of Norval Street, updated Council on the Community Stakeholders Workshop that was held last Saturday. She reported about 75 to 90 people attended the meeting and they are working on future projects. She reported that the next meeting will be held on March 5th.

IN RE: PROPOSED VITAL SERVICES LEVY

BARRY BLEDSOE, a member of the committee for the Vital Services Levy that is trying to get passed in Marion County, addressed Council regarding the Levy. He explained the Vital Services Levy and how various agencies will benefit from the Levy and how much the Levy will cost the taxpayers of Marion County. He then encouraged everyone to vote in favor of the Levy during the May 10th Primary Election.

DEBBIE HARVEY, Director of the Marion County Senior Citizens, Inc., spoke in favor of the proposed Vital Services Levy. She addressed Council regarding the services that are provided to the senior citizens. She said that the Levy will provide necessary funding to enhance and expand services to the Seniors of Marion County.

IN RE: HOUSE BILL 4352

DEBBIE HARVEY also addressed Council regarding the closing and/or selling of the John Manchin Health Care Center. She said that she received a telephone call from Delegate Caputo this afternoon after the hearing and committee meeting. She was told that there has been a reprieve on this hospital and the other hospital closures. She explained that they are putting them in a study phase, however, Council's support is still needed. She encouraged letters and phone calls to help keep this facility open. Ms. Harvey said that she is interested in this because that facility provides the meals for their senior program. She added that if they would be sold or closed then they will have to come up with funding to try to revamp one of their kitchens or try to find another vendor to prepare their food.

CITY MANAGER'S REPORT

IN RE: STAFF COMMENDED

Mr. Gomez commended City staff for clearing the roads and the Police and Fire that are out there responding.

IN RE: HOUSE BILL 4352

The City Manager stated that he would be happy to write a letter to the Delegates and go forward with that. He then stated that an article in the Dominion Post and Charleston Gazette each had a little different spin or

explanation of the situation. He said that the Charleston Gazette spoke about the State looking to sell the hospitals rather than divesting them and eventually closing them. He said either way on how the media portrays certain actions by any government, it is interesting how the two articles are worded a little bit different but it is still an important issue that needs to be addressed. He said as we are looking to propel Fairmont to the future with development and redevelopment and attracting business and investors, we certainly want to keep existing businesses open within the City of Fairmont and keep people employed and this facility provides extremely important services to an important demographic within the City. He said that he will advise the Legislature of the City's decision.

IN RE: CITY TREES

Mr. Gomez said he did omit that at the last Council meeting when he brought it up about looking into becoming a Tree City USA that we do actually have hundreds and thousands of trees in City parks that we do maintain as the need arises. He noted that he omitted that from his comments at the last meeting and he mentioned more about maintaining trees and right-of-ways that we really don't unless the need arises.

IN RE: BUDGET WORK SESSION SCHEDULED

The City Manager reminded Council of the FY 17 budget work session to be held on Tuesday, February 16th at 5:30 p.m.

IN RE: WORK SESSION WITH PARKING AUTHORITY

Mr. Gomez said that he wanted to mention a request that has been made from the Parking Authority to also discuss various parking issues and how they are being managed throughout the City. He said that for the last month, the snow situation, aside from a few weeks ago, there are a considerable number of parking, he would call them questions or concerns or concerns, from a variety of different residents and businesses and even visitors to the City of Fairmont. He noted that it was important that we have a discussion and the Parking Authority will have a more detailed discussion but we need to address comments that have been made.

IN RE: SOCIAL SERVICE AGENCIES

The Manager noted that he has been having meetings with various social service agencies, not-for-profits, and as he continues with those, he wanted to mention publicly that he is a big proponent of supporting agencies and

whatever the City can do. He noted that we are limited with resources in terms of funding and we do provide some funding to various agencies but more of getting information out and specifically to our employees but letting those agencies or organizations know that the City is advocating and supporting organizations that are collectively helping our Fairmont community.

IN RE: BOARDS AND COMMISSIONS

Mr. Gomez said that we did issue some requests on the City's internet site and through Facebook for folks interested in serving on various boards and commissions. He noted that we received responses very quickly so we are actively working, between Janet Keller and Hanna Weaver, on getting that information out.

Councilmember Weber asked that when that information comes in, can it be sent to all Councilmembers so we are aware of these individuals.

Mr. Gomez said that was a good idea. He noted that we will review that.

Councilmember Weber said that he did not want to wait until the time to appoint somebody to the board.

Mr. Gomez said that he did not see why we couldn't and we will provide those to Council as to who the applicants are.

IN RE: VACANT BUILDING REGISTRATION PROGRAM

Councilmember Yann said that with the recent snow, there were several places in his district that the people did not shovel but when he looked at the places, they were the vacant properties. He then asked if the City was getting any feedback on people registering these vacant homes.

Mr. Gomez replied not very much. He said that it was probably more proactive on our staff observing.

Councilmember Yann asked if they were coming in voluntarily to register the properties.

Mr. Gomez said no, not as many as used to. He noted that he was observing a few and reporting those back.

CONSIDERATION OF COUNCIL BUSINESS

**IN RE: ADOPTION, AN ORDINANCE PROVIDING FOR AN AMENDMENT
TO THE CITY OF FAIRMONT'S 2015-2016 ANNUAL BUDGET: GENERAL FUND**

Mayor Straight entertained a motion for the adoption of an ordinance providing for a General Fund Budget Revision.

Motion:

Councilmember Mason moved for the adoption of the proposed ordinance. Councilmember Mainella seconded the motion.

Roll call was taken by the Clerk.

The Mayor declared the ordinance adopted by unanimous vote Council and the ordinance designated as Ordinance No. 1674 was duly adopted.

**IN RE: ADOPTION, A RESOLUTION OF THE COUNCIL OF THE CITY OF
FAIRMONT PROVIDING APPROVAL AND CONCURRENCE FOR THE
ACQUISITION OF FEDERALLY CONTROLLED EQUIPMENT**

Mayor Straight entertained a motion for the adoption of a resolution providing approval for the acquisition of federally controlled equipment for the Fairmont Police Department (4 Humvees).

Motion:

Councilmember Warner moved for the adoption of the resolution. The motion was seconded by Councilmember Mason.

The Clerk read the proposed resolution by synopsis for the first time.

Discussion:

Councilmember Linger stated that he completely disagreed with this. He said yes, it was great, that we can get some free equipment but it is equipment that he did not think we need. He added that it was also free to receive but it is certainly not free to maintain and anybody that has served in the military knows that these things are not cheap to maintain and not cheap to keep going. He said that to even fathom that in this City that we

would need Humvees for the safety of our officers sounds ridiculous to him. He said there has not been a single incident in this City in which having a Humvee would have made any situation better.

Police Chief Steve Shine stated that he thought Councilmember Linger was wrong. He said that on January 22nd to 26th it would have assisted the public and their response to them if we would have had those vehicles.

Councilmember Linger said for snow.

The Chief replied that was one instance.

Councilmember Linger said that he was speaking on the safety of an officer because that is what is cited in the resolution.

Chief Shine said that with regards to the safety of an officer, the vehicles would be utilized for the response to clandestine laboratories in which case our Task Force Officers are required to have open aired vehicle to respond to those and it would make the decontamination of the vehicles a lot easier. He also mentioned that they have cargo areas in the vehicles and will not subject the officers to the chemicals.

Councilmember Linger asked if a study has been done on the ongoing costs of ownership of these types of vehicles.

The Chief said a study, no. He said that he did not even know the shape of the vehicles. He explained that the purpose of the resolution was for us to discuss it and talk about the acquisition of the Department of Defense vehicles. He stated that he knows there is a cost in air filters, water fuel separators, tires, brakes, and anything else that would go along with general maintenance. He noted that he spent nine years in the Army and was an instructor for these vehicles so he has some familiarity with what it takes to keep them running. He said that with the surplus of parts that are available, they are not GSA prices; we are not paying what the military paid for them. He added that we can get parts at surplus prices.

Councilmember Yann asked if he was applying for four.

The Chief said that it would probably help if he waited and discussed the whole program and how this came about and then he can answer any questions. He did not know if this was the proper point in which to talk about it.

The Mayor told Chief Shine this would be the proper time for him to make his presentation.

Chief Shine explained that for decades the Department of Defense has been getting rid of surplus vehicles to governmental agencies, Police Departments, Fire Departments, City Governments, State Departments, etc. The Department of Defense was specifically getting rid of their vehicles through a 1033 Program. The City of Fairmont was the recipient of several vehicles by that Program. We have two vehicles acquired through the Program sitting on our police lot right now, a 1990 ambulance and a 1993 F-250 that we currently utilize that are getting up there in miles and age. Recently, specifically it was referenced with the events in Ferguson and other police departments and President Obama in January of 2015 initiated an Executive Order 13688 and in that he established a working group that was supposed to talk about the distribution of military equipment to liberal governments, specifically police departments, and how they would be utilized. He said that working group sent out their recommendations and they were approved by President Obama and became effective October 1, 2015. What that did is cause everybody that was a recipient of military equipment which they now defined as controlled equipment which would be HMMV's and armored vehicles and just about anything even vests, batons, and anything that the police department got from the military they were now considered controlled equipment and guidelines have to be established for their use, distribution from now on and things like that. The Chief said every state has what they call Law Enforcement Support Office that is set up to bring those items into the state and distribute it among the political subdivisions. Our LESO determined that there was a city that had obtained many, many, many items above what they could actually utilize and actually reached out to Lt. Murphy because we were recipients of this program and we always abided by the controls that they had on it and the policy and the implementation of the vehicles, disposal of the vehicles after we were done using them. So they recognized us as an appropriate agency to give these four Humvees that were improperly distributed to another agency. He said again that they reached out to Fairmont, we did not apply for any of these vehicles, they offered them to us. The Chief went on to say that with that, we have to abide by certain controls that have been placed by the Executive Order of President Obama had passed. He said that one of those is getting approval for any controlled equipment through the local civilian government and that is what he is here for today is to explain what we would possibly use those vehicles for and the reason why we are getting offered them and what we have to do to keep those vehicles under the Executive Order 13688. He then said, yes, they will have maintenance cost and he understands that they are not totally free but they are being given to

us free without anything other than us making sure that we have proper accountability for everything.

Councilmember Mason added that transporting our safety people to a site of some horrible thing that we have all seen around the country with some degree of speed would be important and to transport them safely would be important so they could get there to control the situation. He said let's not forget that we have some pretty significant institutions that might be attractive and he would hate to be in a situation where we were short sided because of the cost of some tires and air filters.

Chief Shine is just to be clear, Lt. Murphy has prepared some handouts for Council to show more about the program and why we want to obtain these vehicles and what these vehicles would assist us with. He said the Humvees will be two M1045A2's and two M1097's, which are basically multipurpose wheeled vehicles.

Councilmember Yann asked if there had to be a special person to perform the maintenance on the vehicles.

The Chief replied that even with our police vehicles, Lt. Murphy takes care of a lot of the maintenance on them along with a maintenance custodian that we have at the Police Department. He said that he did not foresee anything that these vehicles would have that our city garage could not maintain. He noted that the only specialized equipment that they have issues with would be the automatic tire deflation device which we could actually disable. He did not foresee any special people to come in and look at them. He noted that we do have the ability to turn them down. He said that when we go look at them and if they are in horrible shape, we can definitely decide that we don't want to bring those vehicles into the fleet.

Councilmember Mainella asked if there was any restrictions to using them for a couple years and then transfer them to the Street Department.

Chief Shine responded by saying that we have done that with other equipment that we have obtained under the 1033 Program, however, these are now considered controlled equipment and we cannot transfer them.

After further discussion, the Chief said his goal is not to spend thousands of dollars and make this into some type of dog and pony show or some type of DARE vehicle. He said what his idea for these vehicles would be is to put some rescue symbols on them and make people understand that they are rescue vehicles. He said if money would permit, he would like to put lights

on them because that alerts people to a danger but his goal is not to make them into some special vehicle to enter into a parade or something like that. He said, again, the use is to transport hazardous chemicals of a clandestine lab and to transport materials to their police range which has no building on it right now and they have to move everything into their old truck, if they can keep it running. He noted that there is a lot that you can do with these vehicles and he wants to put it out there that these are rescue vehicles, to move equipment, to move people in rescue situations, etc. The Chief also reported that the Fairmont Police Department has a history of assisting every agency that is here in Marion County and we don't turn people down and we have done nothing but be more proactive in that. He said that his goal is to make sure that we don't look like we are going to use these to militarize the police.

Councilmember Mason asked if there was any special training to drive these vehicles.

The Chief said, yes, one of the stipulations is that we have to provide not only training on the vehicle itself but for the maintenance. He said that he used to be a driving instructor so he would not have a problem doing it. He also mentioned that Sgt. Wolford is a Major and stationed in Camp Dawson and Camp Dawson does have their own instructors and he mentioned about approaching them to see if they would do some type of training program. He said it was very limited to what we can use these vehicles for and they have to have some legitimate purpose and he was not going to use them as a vehicle for a parade. He said that they will be rescue vehicles and use them in an emergency response.

Mr. Gomez said that he will ensure that we do utilize them as have been stipulated, maintain them and manage them in accordance with our existing policies taking into account the cost of the maintenance and we will continue to discuss where the vehicles are and what the usage may or may not have been at least on a monthly basis. He will keep Council apprised as to these vehicles and to how we are doing.

Roll call was taken by the Clerk.

The Mayor declared the resolution adopted by unanimous vote of Council.

**IN RE: ADOPTION, A RESOLUTION PROVIDING FOR AUTHORIZATION
TO FILE AN APPLICATION AND ENTER INTO AN AGREEMENT WITH THE
WEST VIRGINIA EMERGENCY SOLUTIONS GRANTS PROGRAM**

Mayor Straight entertained a motion for the adoption of a resolution providing for the authorization for Hope, Inc. to apply for grant funding.

Motion:

Councilmember Weber moved for the adoption of the resolution. The motion was seconded by Councilmember Warner.

The Clerk read the proposed resolution by synopsis for the first time.

Roll call was taken by the Clerk.

The Mayor declared the resolution adopted by unanimous vote of Council.

ADJOURNMENT

The Mayor entertained a motion for adjournment.

Motion:

Councilmember Mason moved to adjourn the meeting. The motion was seconded by Councilmember Mainella.

The Mayor declared the meeting adjourned by voice vote of Council at 8:10 p.m.